



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-0648]

RIN 1625-AA11

Revision for Regulated Navigation Area; Savannah River, GA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the regulated navigation area (RNA) on the Savannah River located between Fort Jackson, GA (32°04.93N, 081°02.19W) and the Savannah River Channel Entrance Sea Buoy. This document proposes to remove inapplicable and/or outdated definitions, processes and requirements in the RNA following a change in capability, infrastructure and layout of the Southern Liquefied Natural Gas (LNG) facility on the Savannah River. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2018-0648 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY

INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Joseph Palmquist, Coast Guard; telephone 912-652-4353 ext. 221, e-mail joseph.b.palmquist@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
GT	Gross tons
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
RNA	Regulated Navigation Area
COTP	Captain of the Port

II. Background, Purpose, and Legal Basis

On September 10, 2007, the Coast Guard published a final rule titled “Regulated Navigation Area: Savannah River, Savannah, GA” at 33 CFR 165.756. (72 FR 51555). That rule established a RNA around the Southern LNG facility on the Savannah River at Elba Island. Since publishing the previous rule, there have been changes both to the facility layout and to the types of vessels that make calls to the facility. United States Coast Guard Marine Safety Unit Savannah, GA held a public meeting to solicit public input on suggested changes to this RNA. The public input we received is described in the Public Participation and Request for Comments section of this NPRM. Therefore, the U.S. Coast Guard proposes revision of and amendments to the RNA to account for these changes and to ensure the safety and security of the marine environment during LNG

tankship operations. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The Commander of the Seventh Coast Guard District proposes to amend the Southern LNG facility RNA (33 CFR 165.756) as follows. The proposed rule removes the definitions of “Fire Wire”, “Made-up”, and “Make-up” because these terms do not align with the updated Oil Companies International Marine Forum (OCIMF) guidance. Additionally, the proposed rule removes requirements for LNG tankships moored inside the LNG facility slip because the facility layout and capabilities changed, rendering the requirements unnecessary. LNG tankships no longer moor outside Southern LNG facility slip; they only moor inside the facility slip.

The current regulation prohibits vessels 1600 gross tons (GT) or greater from overtaking within 1000 yards of the LNG facility slip when a LNG tankship is present within the slip. This proposed rule would instead not allow these vessels to meet nor overtake within the area adjacent to either side of the Southern LNG facility slip when an LNG tankship is present within the slip. The purpose of changing the language to “adjacent to either side of the LNG facility” rather than an exact distance is due to the changes of the facility layout, including the facility no longer having the capabilities or infrastructure to moor an LNG tankship outside of the Southern LNG facility slip.

This proposed rule removes the requirements for an LNG tankship that is moored outside of the Southern LNG facility slip. Since publishing the previous rule, there have been changes both to the facility infrastructure and to the types of vessels that make calls to the facility. The LNG tankships visiting Southern LNG are only moored inside the

LNG facility slip, not outside the LNG facility slip. The slip outside of the LNG facility no longer has the capability to moor LNG tankships. The change to Southern LNG facility infrastructure capacity has made these requirements unnecessary.

Finally, the proposed changes remove various requirements for vessels within the RNA. Vessels 1600 GT or greater will no longer be required to have two towing vessels when passing a LNG tankship moored outside of the LNG facility slip. Having two tugs is not required due to the change in capability, infrastructure and layout of the Southern LNG facility. Specifically, two tugs would not be required based on transiting vessel's proximity to LNG tankships moored inside the Southern LNG facility slip. Additionally, because transiting vessels can communicate and safely transit each other using VHF communications the Coast Guard has proposed removing various bridge watch requirements for vessels moored at the Southern LNG facility.

These proposed changes are necessary to ensure the safety of persons and property within the RNA during LNG tankship operations and transfers after changes in the facility layout. The changes to the regulatory text we are proposing appear at the end of this document.

IV. Regulatory Analyses

We developed this proposed amendment to the Southern LNG facility RNA at 33 CFR 165.756 after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits

of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This proposed amendment and revision has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The economic impact of this proposed rule amendment is not significant, as the amendment does not impact the area or effective period of the current rule, but rather updates definitions and processes based on changes both to the facility layout and to the types of vessels that make calls to the LNG facility.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the RNA may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction

qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a RNA when an LNG tankship in excess of heel is transiting the area or moored at the LNG facility. Normally such actions are categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. A public meeting was held on July 25, 2018 to determine whether proposed amendments or revisions to the current RNA were necessary. Members of the public, representatives from relevant marine industry, and members of the Coast Guard were in attendance. One comment was received regarding the notice of the public meeting, which was not germane to the substance of the proposed changes. A summary of comments received during the public meeting is available in the docket.

One participant proposed removing reference in the regulation to LNG tankships being moored outside of the Southern LNG facility slip as the facility no longer has this capability because the dock has been decommissioned. The Coast Guard agrees and in response to this comment proposes removal of any reference to LNG tankships being moored outside of the Southern LNG facility slip. The reference “inside” and “outside” the LNG facility remains described in various sections to avoid confusion as to what infrastructure is being referenced with the proposed rule. The proposed rule will only reference LNG tankships moored inside Southern LNG facility slip. This reference accurately describes where LNG tankship moor at Southern LNG.

One participant proposed modifying the 1,000-yard area requirement in which vessels 1,600 gross tons or greater may pass by the slip by removing the 1,000-yard requirement and inserting “adjacent to the slip.” The Savannah Pilots indicated their concurrence with this proposal. The Coast Guard agrees and in response proposes to remove the aforementioned 1,000-yard requirement and replace the language “adjacent to the slip.”

One participant suggested that maintaining a bridge watch on the LNG vessel was unnecessary. The representative from Shell Shipping and Maritime indicated that nowhere else is a bridge watch maintained on an LNG vessel, and recommended eliminating the requirement. The representative from the Savannah Maritime Association requested information on how to communicate with passing vessels and the use of VHF communications. The Coast Guard agrees with the recommendation, and proposes to eliminate the requirement for a bridge watch.

One participant requested an estimated number of times the RNA would be enacted in a year. The representative from Kinder Morgan estimated 36 vessels per year would import LNG to the Southern LNG facility.

One participant suggested definitions of different types of vessels, such as barges and tankships, should be added to the current regulation. The representative from Kinder Morgan suggested that barges are not tankships and as such should not be included in the regulation. The Coast Guard agrees, and does not propose to include any such definitions at this time.

Several comments received considered the use of the RNA by barges and the need for inclusion. The Coast Guard does not believe reference to barges in the current

regulation is required at this time.

The Coast Guard will consider all comments and material received during the comment period to this proposal. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33

CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Amend §165.756 by:

- a. Removing in paragraph (b), the definitions for “Fire Wire”, “Made-up”, and “Make-up”;

- b. Removing paragraphs (d)(2), (d)(4), (d)(5) and (d)(6); redesignate paragraph (d)(3) as paragraph (d)(2);

- c. Removing in newly designated paragraphs (d)(2)(i) and (ii), the words “as directed by the LNG vessel bridge watch required in paragraph (d)(5) of this section.” and

- d. Adding new paragraph (d)(3) to read as follows:

§ 165.756 Regulated Navigation Area; Savannah River, Georgia.

(d)***

(3) Requirements for other vessels while within the RNA. (i) Vessels 1,600 gross tons or greater shall at a minimum, transit at bare steerageway when within an area 1,000 yards on either side of the LNG facility slip to minimize potential wake or surge damage to the LNG facility and vessel(s) within the slip.

(ii) Vessels 1,600 gross tons or greater shall not meet nor overtake within the area

adjacent to either side of the LNG facility slip when an LNG tankship is present within the slip.

(iii) Except for vessels involved in those operations noted in paragraph (c) of this section entitled Applicability, no vessel shall enter the LNG facility slip at any time without the permission of the Captain of the Port.

Dated: May 24, 2019

P. J. Brown,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard District

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